

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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CARLOS PIEDRA, *individually and on behalf*  
*of all other employees similarly situated,*

Plaintiffs,

-against-

**MEMORANDUM & ORDER**

17-CV-3316 (PKC) (CLP)

ECUA RESTAURANT, INC. d/b/a “La Bamba  
Restaurant,” BLANCA O GUALLPA, a/k/a  
“Blanca Chauca,” LOUIS PEREZ, and DAVID  
SIGCHA,

Respondents.

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PAMELA K. CHEN, United States District Judge:

On January 31, 2018, Magistrate Judge Cheryl L. Pollak issued a Report and Recommendation (Dkt. 23), in which she recommended that Plaintiff be awarded a total of \$140,122.63 in damages (*id.* at 44). This Court respectfully modifies the exceedingly thorough Report and Recommendation (“Report”) and awards Plaintiff a total of \$242,303.89 in damages.

**STANDARD OF REVIEW**

A court may accept, reject, or modify, in whole or in part, the findings or recommendations made by a magistrate judge. *See* Fed. R. Civ. P. 72(b)(3); *Grassia v. Scully*, 892 F.2d 16, 19 (2d Cir. 1989). A court may accept those portions of a report to which no specific, written objection is made, as long as the factual and legal bases supporting the findings are not clearly erroneous. *See Ramirez v. United States*, 898 F.Supp.2d 659, 663 (S.D.N.Y. 2012). No objections have been filed in this case.

**DISCUSSION**

The Court modifies the Report as follows:

**Table 1: Piedra's Modified Overtime Wages<sup>1</sup>**

<b>Period</b>	<b>Hourly Wage Rate Paid</b>	<b>Overtime Wage Rate</b>	<b>Hours of Overtime Per Week</b>	<b>Number of Weeks in Period</b>	<b>Overtime Owed for the Period</b>
11/9/15-5/9/16	\$20.00	\$30.00	48	26	\$37,440.00
5/10/16-1/31/17	\$22.50	\$33.75	48	38	\$61,560.00
2/1/17-5/9/17	\$13.00	\$19.50	18	14	\$4,641.00
<b>Total Overtime Owed:</b>					<b><u>\$103,641.00</u></b>

**Table 2a: Piedra's Modified Spread of Hours Wages<sup>2</sup>**

<b>Period</b>	<b>NYLL Min. Wage</b>	<b>No. of Days Worked Over 10 Hours</b>	<b>No. of Weeks in Period</b>	<b>Total SOH Owed for Period</b>
11/9/15-12/30/15	\$8.75	6	7.4	\$388.50
12/31/15-12/30/16	\$9.00	6	52	\$2,808.00
12/31/16-1/31/17	\$9.70	6	4.6	\$267.72
2/1/17-5/9/17	\$9.70	2	14	\$271.60
<b>Total Spread of Hours Pay Owed:</b>				<b><u>\$3,735.82</u></b>

**Modified Total Damages Owed to Plaintiff<sup>3</sup>**

<b>Claim</b>	<b>Amount Owed to Plaintiff Piedra</b>
Unpaid Overtime	\$103,641.00
Unpaid Spread of Hours	\$3,735.82
Wage Notice Damages	\$5,000.00
Wage Statement Damages	\$5,000.00
Liquidated Damages	\$107,376.82
Pre-Judgment Interest	\$14,350.25
Attorney's Fees	\$2,800.00
Costs	\$400.00
<b>Total</b>	<b><u>\$242,303.89</u></b>

<sup>1</sup> See Dkt. 23 at 28 for the Report's calculation.

<sup>2</sup> See *id.* at 29 for the Report's calculation.

<sup>3</sup> See *id.* at 44 for the Report's calculation.

## CONCLUSION

The Court has reviewed the Report and adopts the Recommendations with the exception of the modifications described above. Accordingly, it is hereby ORDERED that Plaintiff is awarded \$242,303.89 in damages. The Clerk of Court is respectfully requested to enter judgment and close the case accordingly.

SO ORDERED.

/s/ Pamela K. Chen

Pamela K. Chen

United States District Judge

Dated: February 28, 2018  
Brooklyn, New York